

## TASMANIA.

## THE STATE ADVANCES ACT, 1928.

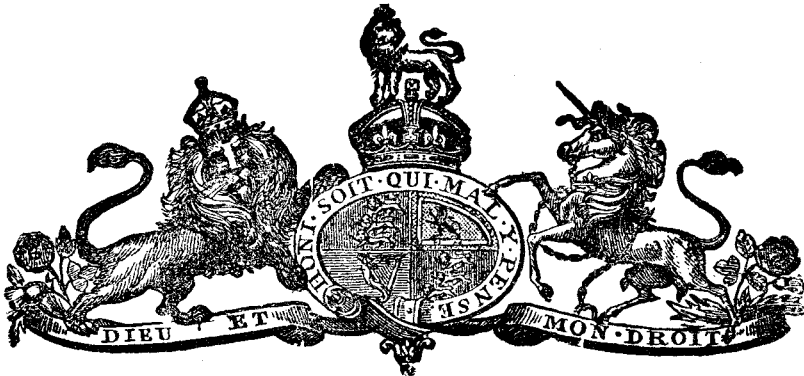
## ANALYSIS.

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| <ol style="list-style-type: none"> <li>1. Short title and commencement.<br/>Principal Act.</li> <li>2. Abolition of Trustees of Agricultural Bank and substitution of Board.<br/>Repeal of Sections 6 and 7 of the Principal Act.</li> <li>3. Constitution of Board.</li> <li>4. Remuneration of appointed members of the Board.</li> <li>5. Dismissal from office.</li> <li>6. Quorum and procedure of Board.</li> <li>7. Reference in Principal Act to trustees, &amp;c.<br/>Amendment of Section 3 of the Principal Act.<br/>Amendment of Section 4 of the Principal Act.</li> <li>8. Vesting of property in Board.<br/>Enforcement of rights by and against Board.</li> <li>9. Amendment of Section 21 of the Principal Act.</li> <li>10. Insertion of new Part V. in the Principal Act.<br/>Establishment of Rural Credits Department.</li> </ol> | <p>Treasurer may borrow £250,000.<br/>Board may arrange with bank to act as its agent.<br/>Board may make advances for certain purposes.<br/>Security on which advances may be made.<br/>Board may, in certain events, refuse to pay instalments of advances, and may call in any moneys already advanced.<br/>Board may discount bills.<br/>Application of Parts III. and IV. of this Act.<br/>Mortgages on crops, stock, &amp;c.<br/>Registration of mortgage.<br/>Protection of landlords and mortgagees.<br/>Discharge of mortgage.<br/>Publication prohibited.<br/>Application of Bills of Sale Act, 1900.<br/>Regulations.<br/>No advances under this part after 31st December, 1929.</p> |
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## T A S M A N I A.



1928.

ANNO NONO DECIMO

GEORGII V. REGIS.

No. 50.

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AN ACT to amend the State Advances Act, <sup>A.D.</sup> 1928.  
 1907, and to make provision for a Rural  
 Credits Department of the Agricultural  
 Bank of Tasmania, established under this  
 Act. [15 January, 1929.]

**BE** it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1**--(1) This Act may be cited as "The State Advances Act, 1928," and shall come into operation on a date to be fixed by proclamation.

(2) The State Advances Act, 1907, is herein called "the Principal Act."

Short title  
and com-  
mencement.  
Principal  
Act.  
7 Ed. VII.  
No. 20.

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Abolition  
of Trustees  
of Agricultural  
Bank and substi-  
tution of  
Board.

Repeal of  
Sections 6  
and 7 of the  
Principal  
Act.

Constitu-  
tion of  
Board.

Remuner-  
ation of  
appointed  
members of  
the Board.

Dismissal  
from office.

**2—**(1) The body corporate under the name or style of "The Trustees of the Agricultural Bank of Tasmania" constituted by the Principal Act is hereby abolished, and there shall be substituted therefor a board to be constituted as hereinafter mentioned.

(2) Sections Six and Seven of the Principal Act are hereby repealed.

**3—**(1) There shall be constituted for the purposes of this Act and the Principal Act a Board of three members to be known as "The Board of Management of the Agricultural Bank of Tasmania," and hereinafter referred to as "the Board."

(2) The person for the time being holding the office of Manager of the Bank shall, *ex officio*, be one of the members of the Board and the Chairman thereof.

(3) The two other members of the Board shall be appointed by the Governor. Of the members to be first appointed to the Board one shall be appointed for a term of two years, and the other for a term of three years. Every member of the Board to be thereafter appointed shall be appointed for a term of three years.

(4) The Board, under the name aforesaid, shall be a body corporate with perpetual succession and a common seal, and may, in its corporate name, sue and be sued and hold land.

(5) In case of the absence or illness of an appointed member of the Board, the Governor may appoint some person to act in the place of such member during such absence or illness.

**4** Each appointed member or acting member of the Board shall be paid out of the funds of the Bank such remuneration for his services as shall be fixed by the Governor in the instrument of his appointment.

**5** The Governor may dismiss any appointed member of the Board from his office :—

- i. For misbehaviour or incompetence :
- ii. If he becomes incapable of performing his duties :
- iii. If he becomes bankrupt or insolvent, or takes or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, or compounds with his creditors for less than Twenty Shillings in the pound, or makes an assignment of his estate for the benefit of his creditors :
- iv. If he absents himself (except on leave granted by the Governor) from all meetings of the Board held during two consecutive months, or during any three months in any period of twelve months :
- v. If he becomes in any way, except as a member, concerned or interested in any contract made by or on behalf of the Board, or in any way participates, or claims to be entitled to participate, in the profits thereof, or in any benefit or emolument arising therefrom : Provided that this para-

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graph shall not apply in the case of a contract with an incorporated company of more than twenty members of whom the member of the Board in question is one, unless he is a director of such company, or votes on some question relating to the contract.

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**6—(1)** Any two members of the Board shall form a quorum ; but, if there shall be an equality of votes at a meeting of the Board on any matter, the determination of such matter shall be deferred until the next meeting at which all the members are present.

Quorum and procedure of Board.

(2) The Chairman shall preside at all meetings of the Board at which he is present, and if he is absent from any meeting one of the members present shall preside thereat.

(3) The Board may act notwithstanding a vacancy in its membership.

(4) The Board shall cause minutes to be kept of all proceedings at meetings of the Board.

(5) Subject to this Act, the Board may regulate its own procedure.

**7—(1)** Wherever in the Principal Act or the Homes Act, 1919, or the Lamb Raising Industry Encouragement Act, 1925, reference is made to the trustees, such reference shall be deemed to be a reference to the Board, and, whenever in any of such Acts reference is made to "a trustee" or "a deputy-trustee," such reference shall be deemed to be a reference to a member or an acting member of the Board.

Reference in Principal Act to trustees, &amp;c.

(2) Section Three of the Principal Act is hereby amended by inserting the following definition after the definition of "Manager" in that section :—

Amendment of Section 3 of the Principal Act.

"Part" means Part of this Act."

(3) Section Four of the Principal Act is hereby amended by inserting after the words "Part IV.—Miscellaneous" in that section the following words :—

Amendment of Section 4 of the Principal Act.

"Part V.—Rural Credits Department."

**8—(1)** All property, estates, and interests, and all debts, moneys, and securities for money, and all obligatory instruments, evidences, and muniments of title or interest, and all powers, rights, claims, and privileges, at law or in equity, had, acquired, possessed, or enjoyed, or vested in the trustees at the commencement of this Act, shall, by virtue of this Act, and without the necessity of any transfer, pass to and vest in the Board.

Vesting of property in Board.

(2) Every right of action accrued to or against, and every contract, agreement, lease, mortgage, bond, guarantee, covenant, or obligation lawfully made or entered into by or with the trustees before the commencement of this Act, may be enforced by or against the Board in the name of the Board, as if the right of action had originally accrued to or against, or the contract, agreement, lease, mortgage, bond,

Enforcement of rights by and against Board.

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10 Geo. V.  
No. 39.16 Geo. V.  
No. 62.Amend-  
ment of  
Section 21  
of the  
Principal  
Act.Insertion of  
new Part V.  
in the  
Principal  
Act.Establish-  
ment of  
Rural  
Credits  
Depart-  
ment.Treasurer  
may borrow  
£250,000.Board may  
arrange  
with bank  
to act as its  
agent.

guarantee, covenant, or obligation had been made or entered into by or with the Board, and in the same manner as if this Act had not been passed.

(3) The foregoing provisions of this Section shall apply to the Board as well in respect of the Principal Act as of the Homes Act, 1919, and the Lamb Raising Industry Encouragement Act, 1925.

**9** Section Twenty-one of the Principal Act is hereby amended by omitting in the twenty-sixth line thereof the word "three-fifths," and substituting therefor the word "seven-tenths."

**10** The following new Part V. is hereby inserted after Part IV. of the Principal Act:—

**" PART V.****RURAL CREDITS DEPARTMENT.**

**" 39** For the purposes of this Part there shall be a Rural Credits Department of the Bank, the moneys, accounts, and transactions of which shall be kept distinct from all other moneys, accounts, and transactions of the Bank.

**" 40—(1)** It shall be lawful for the Treasurer to raise, borrow, and receive, on the security of the Consolidated Revenue, for the purposes of this Part, any sum or sums of money not exceeding in the whole the sum of Two hundred and fifty thousand Pounds.

(2) Pending the raising and borrowing by the Treasurer of any such sum or sums as aforesaid, it shall be lawful for the Treasurer to borrow for the purposes of this Act, from the Commonwealth Bank of Australia (hereinafter called "the Commonwealth Bank"), on overdraft, any portion or portions of the abovementioned sum of Two hundred and fifty thousand Pounds.

(3) Any sum or sums of money borrowed by the Treasurer under Subsection (1) of this section shall, as and when received by him, be paid into the Commonwealth Bank in payment or reduction, as the case may be, of such overdraft as aforesaid.

(4) Subject as aforesaid, the moneys borrowed under this section shall form a fund available to the Board for the purpose of making advances under this Part and for the payment of the expenditure to be incurred by the Board in administering this Part, and the Board is hereby empowered to operate on any account opened by the Treasurer in the Commonwealth Bank in respect of such overdraft as aforesaid.

**" 41—(1)** The Board may enter into an agreement with any bank or banks to act as agent for the Board—

- i. For making advances on behalf of the Board for the purposes of this Part :
- ii. For the collection and receipt of moneys on behalf of the Board : and

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III. For any other purpose in connection with the carrying out of the objects of this Part which the Board may determine.

(2) Any such agreement as aforesaid shall be in writing and subject to the approval of the Treasurer.

“42—(1) The Board may make advances under this Part, on the prescribed security, to persons engaged in any rural industry for all or any of the following purposes :—

Board may make advances for certain purposes.

i. The purchase of machinery, implements, stock, poultry, trees, plants, manures, and other things which the Board may consider necessary or convenient for the carrying on of such industry :

ii. The payment of any debt or other liability incurred in connection with the carrying on of such industry : and

iii. Any other purpose which may be approved by the Board.

(2) Every application for an advance shall be made in the prescribed form, and shall contain such particulars as shall be prescribed.

(3) No such advance shall be made or granted of an amount less than Twenty Pounds.

(4) No such advance shall exceed three-fifths of the amount determined by the Board as the value of the security on which the same is made.

(5) No such advance shall exceed the sum of Five hundred Pounds : Provided, however, that in the case of an incorporated body, the Board may, having regard to the composition of such body and the nature and extent of its business, advance to such body any amount exceeding the sum aforesaid as the Board shall think fit.

(6) Any advance under this Act may be made in one lump sum, or by way of instalments, in such manner and at such times as the Board shall, in any particular case, determine, or may be made by way of current account.

(7) Interest in respect of advances under this Part shall be payable at such rate as shall be determined from time to time by the Board. Where an advance is made by instalments, interest shall be payable on each such instalment from the time of the advancing thereof, and, in the case of an advance by way of current account, interest may, if the Board so determine, be payable on the daily debit balance of such account.

(8) Except when otherwise determined by the Board, interest shall be payable half-yearly on the first day of January and the first day of July in each year.

(9) All advances shall be repayable within a period of five years from the making thereof, and, in the case of an advance being made by instalments, such period shall be calculated from the date of the advancing of the first instalment. Any advance may, at the option of the Board, be made repayable in a lump sum or by instalments of principal and interest combined, or in such other manner as the Board shall in any particular case determine.

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(10) The Board may fix a higher rate of interest to be payable in any case in which default is made in payment of the same for a period of fourteen days from the due date thereof.

(11) For the purposes of this Part "Rural industry" means agriculture, horticulture, any farming industry, the pastoral industry and any industry which the Governor may, by proclamation, declare to be a rural industry for the purposes of this Part.

Security on which advances may be made.

"43 No advances shall be made under this Part except upon the security of—

- I. Freehold land or land held under purchase from the Crown upon the credit system : or
- II. Crops, wool, stock, poultry, plant, machinery, or implements :  
or
- III. Such other security as may be approved by the Board and sanctioned by the Governor.

Board may in certain events refuse to pay instalments of advances and may call in any moneys already advanced.

"44—(1) The Board may, at the time of making any advance or instalment of an advance under this Part, specify the purpose for which the same is to be applied.

(2) The Board may, if it is satisfied that any money advanced under this Part has not been applied for the purpose for which it was advanced, or for some other purpose approved by the Board, or that such money has been expended in a careless or wasteful manner—

- i. Refuse to pay to the borrower any further instalment on account of such advance : and
- ii. Call in the amount already advanced,

whereupon the borrower shall forthwith repay the same to the Board, together with all interest due or accruing due thereon.

Board may discount bills.

"45 The Board may, upon such terms and conditions in all respects as it thinks fit, discount promissory notes or bills of exchange held by persons engaged in any rural industry.

Application of Parts III. and IV. of this Act.

"46 The provisions of Parts III. and IV. of this Act shall, wherever the same are applicable, apply to and in respect of advances under this Part, but, whenever any of such provisions are inconsistent with any of the provisions of this Part, the provisions of this Part shall prevail.

Mortgages on crops, stock, &c.

"47—(1) Every security taken by the Board under this Part in respect of any crops, wool, stock, poultry, plant, machinery, implements, or other chattels shall be by mortgage to the Board, and shall be in the form set out in the schedule to this Part, or in a form to the like effect, and every such mortgage shall be registered, as provided by this Part, within thirty days after the date thereof.

(2) Every such mortgage duly made and registered as aforesaid shall entitle the Board to all property in the goods and chattels therein specified or described, as security for such advance, to the exclusion



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of any other person, and during the continuance of any such mortgage the possession of the subject-matter thereof by the mortgagor shall be deemed to be possession by the Board.

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(3) Every such mortgage of wool or crop shall be an authority for the Board to take possession of the subject-matter thereof and to—

- I. Wash and shear the sheep bearing such wool: and
- II. Harvest any such crop—

if and whenever the same may be necessary for perfecting, protecting, or realising its security under such mortgage.

(4) Every mortgage under this section shall expire and cease to have effect upon the expiration of two years from the date of its registration, or, if the same is re-registered as hereinafter provided, from the date of its last re-registration.

(5) Upon the expiration of any such mortgage or upon payment to the Board of all moneys due to it thereunder, whichever event first happens, the property thereby vested in the Board shall revert to, and revest in, the mortgagor, but this provision shall not extend to the property in any goods or chattels of which the Board, under and by virtue of such mortgage, may have lawfully disposed prior to such payment or which it may have seized for the purpose of such disposal prior to such expiration, as the case may be.

(6) Every such mortgage as aforesaid shall be registered within thirty days after the date thereof by filing with the Registrar of the Supreme Court (hereinafter called "the Registrar") a true copy thereof, certified by affidavit. Registration of mortgage.

(7) Any such mortgage may be re-registered at any time before the expiry thereof by the filing of an affidavit, in the prescribed form and containing the prescribed particulars, showing that such mortgage is a subsisting security for the amount stated in such affidavit.

(8) The Registrar shall keep a register in the prescribed form of all such mortgages and shall enter therein the prescribed particulars, and shall keep in the prescribed manner and form an index to such register.

"48 Where a mortgage of crops is given under this Part by the tenant or mortgagor respectively of the land whereon such crop is or has been growing, the Board, before selling the same, shall pay— Protection of landlords and mortgagees.

- I. In the first of such cases, to the landlord of such land such rent: and
- II. In the second of such cases to any mortgagee of such land who is in possession thereof under his mortgage such interest—

not exceeding in either case the rent or interest in respect of one year, as may be due to such landlord or mortgagee, as the case may be, at the time such crop is seized by the Board, and all sums so paid shall be recoverable by the Board under its security thereon.

"49—(1) A receipt under the seal of the Board for all moneys secured by any such mortgage as aforesaid, or for the final balance thereof, may be registered without the payment of any fee by Discharge of mortgage.

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filing in the office of the Registrar a true copy thereof, verified by affidavit, and by producing to him the original receipt and the mortgage to which the same relates.

(2) Such registration shall operate as an extinction of such mortgage, but shall not affect anything lawfully done thereunder prior to such registration.

Publica-  
tion  
prohibited.

“50—(1) No person shall publish in any trades journal or other similar publication any list or record of the names of persons giving mortgages under this Part.

(2) If any person contravenes the provisions of this section he shall be liable on summary conviction to a penalty of Ten Pounds.

Applica-  
tion of Bills  
of Sale Act,  
1900.

“51 The provisions of—

- i. Sections Four, Twenty-one, and Twenty-two :
- ii. Sections Twenty-six to Twenty-eight, inclusive :
- iii. Section Thirty-two :
- iv. Sections Thirty-four to Thirty-six, inclusive : and
- v. Sections Thirty-nine to Forty-five, inclusive —

64 Vict.  
No. 70.

of the Bills of Sale Act, 1900, where applicable shall apply to all mortgages under this Part in the same manner and to the same extent as if the said sections had been re-enacted herein with the substitution therein of the word “mortgage” in place of the words “Bill of sale,” and of the words “mortgagor” and “Board” respectively, in place of the words “grantor” and “grantee” wherever occurring, and, except as aforesaid the provisions of the said Act shall have no application to any mortgage duly made and registered as provided by this Part.

Regula-  
tions.

“52 The Governor may make all such regulations as may be necessary or desirable for giving effect to the provisions of this Part.

No  
advances  
under this  
Part after  
31st Decem-  
ber, 1929.

“53 No advance shall be made nor shall any promissory note or bill of exchange be discounted by the Board under this Part after the thirty-first day of December, one thousand nine hundred and twenty-nine.”

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**SCHEDULE.**

THIS INDENTURE, made the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, under the provisions of Part V. of the State Advances Act, 1907, BETWEEN [*insert full name of mortgagor*] of [*address*], in Tasmania, [*occupation*] (herein called the mortgagor), of the one part, and the Board of Management of the Agricultural Bank of Tasmania (herein called the Board) of the other part, WITNESSETH that the mortgagor, as the beneficial owner, DOETH MORTGAGE to the Board ALL AND SINGULAR the goods, chattels, and effects particularly described in the schedule hereunder written. To HOLD the same unto the Board as security for the sum of [*insert amount of mortgage*] payable by the mortgagor to the Board on [*insert date of payment; or, if required, the word "demand"*] with interest thereon in the meantime and until payment thereof at the rate of [*insert rate per cent.*], payable [*insert times of payment.*]

[*Add here any special covenant, condition, or proviso, as, e.g., "The mortgagor will insure."*]

\*IN WITNESS whereof the mortgagor has hereunto set his hand and seal, and the Board has caused its common seal to be hereunto affixed, the day and year first above written.

\*Alter as required where a company is the mortgagor.

SIGNED, SEALED, AND DELIVERED by }  
the said [*mortgagor*] }  
in the presence of }

THE SCHEDULE HEREINBEFORE REFERRED TO [*here insert particulars of property on which security given. If the security is over stock the description must conform to the provisions of Section 34 of the Bills of Sale Act, 1900.*]

[*Mortgagor to sign here.*]

\_\_\_\_\_  
Witness.

